

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL D. MACKAY,

Defendant,

and,

DEREK CALITIS,

Third-Party Petitioner.

NO. CR23-102-RSL

STIPULATION AND ORDER  
SETTLING THIRD-PARTY CLAIM TO  
SEIZED FUNDS AND FORFEITING  
REMAINING FUNDS TO THE UNITED  
STATES

The United States and Third-Party Petitioner Derek Calitis (“Mr. Calitis”) present the following stipulation and proposed order to settle the interest Mr. Calitis has asserted in \$14,225 of the approximately \$55,000 in U.S. funds seized from U.S. Bank account ending -2189, and to forfeit the remaining \$40,775 of seized funds to the United States. Defendant Michael D. MacKay’s interest in these funds has already been forfeited.

**I. RELEVANT PROCEDURAL FACTS**

Defendant MacKay agreed to forfeit the approximately \$55,000 in U.S. Funds seized from U.S. Bank account ending -2189, as well as other property, pursuant to the plea he entered on March 26, 2024. Dkt. Nos. 3, 28. Prior to Defendant MacKay’s

sentencing, the Court entered a Preliminary Order of Forfeiture forfeiting his interest in this, and other, property. Dkt. No. 44.

Thereafter, as required by 21 U.S.C. § 853(n)(1) and Fed. R. Crim. P. 32.2(b)(6)(C), the United States published notice of the Preliminary Order of Forfeiture and its intent to dispose of the \$55,000 in U.S. Funds (as well as other property), in accordance with governing law. Dkt. No. 50. That notice informed any third parties claiming an interest in the property that they were required to file a petition with the Court within 60 days of the notice's first publication on July 5, 2024. *Id.* As required by Fed. R. Crim. P. 32.2(b)(6)(A) and Supplemental Rules G(4)(b)(iii)-(v) of the Federal Rules of Civil Procedure, the United States sent, by means reasonably calculated to reach them, notice and a copy of the Preliminary Order to five individuals who appeared to be potential claimants based upon review of the underlying investigative material. *See* Declaration of AUSA Krista K. Bush in Support of Motion for a Final Order of Forfeiture, ¶ 2, Exhibits A-E. As required by 21 U.S.C. § 853(n)(2), the notice informed the recipients that if they wanted to assert an interest in the property, they were required to file a petition within 30 days. *See id.* Two of the notices were refused when delivery was attempted. *See id.* The last of the notices was delivered on October 11, 2024. *See id.*

Mr. Calitis asserts an ownership interest to \$14,225 of the approximately \$55,000 in funds seized from U.S. Bank account ending -2189. Dkt. No. 55. No other third-party claims to any of the approximately \$55,000 in U.S. Funds were filed and the relevant period for doing so has now expired. *See* 21 U.S.C. § 853(n)(2), Fed. R. Crim. P. 32.2(b)(6), and Fed. R. Civ. P., Supp. R. G(5)(a)(ii).

## II. STIPULATION

The United States and Mr. Calitis HEREBY STIPULATE to the following facts:

1. Mr. Calitis asserts he received \$55,000 in U.S. Funds from Defendant MacKay on or about December 19, 2022 in payment for the purchase of a 2010 Lotus

1 Evora from Mr. Calitis. In support of his claim, Mr. Calitis provided copies of purchase  
2 and payment documents.

3 2. Subsequently, Mr. Calitis filed a claim under the false pretenses policy he  
4 holds with his insurance company.

5 3. Mr. Calitis confirms that he received payment from his insurance company  
6 in the amount of \$40,775.

7 4. The United States recognizes Mr. Calitis' vested interest in \$14,225 of the  
8 \$55,000 in seized U.S. Funds and agrees to return \$14,225 in U.S. Funds to Mr. Calitis  
9 following the criminal proceedings in this case, to include any criminal appeal.

10 5. Mr. Calitis understands and agrees that this Stipulation fully and finally  
11 resolves his petition to the seized funds. Mr. Calitis waives any right to further litigate or  
12 pursue his claim in this, or any other proceeding, judicial or administrative.

13 6. Mr. Calitis agrees to release and hold harmless the United States, its agents,  
14 representatives, and/or employees, as well as any involved state or local law enforcement  
15 agencies, their agents, representatives, and/or employees, from any and all claims Mr.  
16 Calitis may possess, or that could arise, based on the seizure, detention, and return of the  
17 seized funds.

18 7. The United States and Mr. Calitis agree they will each bear their own costs  
19 and attorneys' fees associated with the seizure, detention, and return of the seized funds,  
20 as well as with Mr. Calitis' claim and this Stipulation.

21 8. The United States and Mr. Calitis agree the terms of this Stipulation are  
22 subject to review and approval by the Court, as provided in the proposed Order below. If  
23 the Court enters the proposed Order, a violation of any term or condition of this  
24 Stipulation shall be construed to be a violation of that Order.

25 9. The United States and Mr. Calitis agree the Court shall have exclusive  
26 jurisdiction over interpretation and enforcement of this Settlement Agreement and Order.

10. The signature page of this Settlement Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

Respectfully submitted,  
TESSA M. GORMAN  
United States Attorney

DATED: November 19, 2024

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DATED: November 19, 2024

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DATED: November 19, 2024

s/Derek Calitis  
DEREK CALITIS  
Third-Party Petitioner

## ORDER

The Court, having reviewed the above Stipulation between the United States and Mr. Calitis, as well as the other pleadings and papers filed in this matter, hereby makes the following findings:

A. Third-Party Claim: The Court HEREBY APPROVES the above Stipulation and its terms. The United States shall return \$14,225 of the approximately \$55,000 in U.S. Funds seized from U.S. Bank account ending -2189 to Mr. Calitis at the conclusion of these criminal proceedings.

B. Final Order of Forfeiture: The Court HEREBY FINDS that a Final Order of Forfeiture forfeiting \$40,775 of the \$55,000 in U.S. Funds seized from U.S. Bank account ending -2189 is appropriate because:

- On July 3, 2024, the Court entered a Preliminary Order of Forfeiture finding the approximately \$55,000 in U.S. Funds seized from U.S. Bank Account ending -2189, as well as other identified property, forfeitable pursuant to 18 U.S.C. § 982(a)(2) and forfeiting Defendant MacKay's interest in it (Dkt. No. 44);
- Thereafter, the United States published notice of the pending forfeitures as required by 21 U.S.C. § 853(n)(1) and Federal Rule of Criminal Procedure (Fed. R. Crim. P.) 32.2(b)(6)(C) (Dkt. No. 50) and sent direct notice, by means reasonably calculated to reach them, to five potential claimants as required by Fed. R. Crim P. Rule 32.2(b)(6)(A) and Supplemental Rules G(4)(b)(iii)-(v) of the Federal Rules of Civil Procedure (*see* Declaration of AUSA Krista K. Bush in Support of Motion for a Final Order of Forfeiture, ¶ 2, Exhibits A-E);

- Third-Party Claimant Derek Calitis asserted an ownership interest in \$14,255 of the approximately \$55,000 of U.S. Funds seized from U.S. Bank account ending -2189; and
- No other third-party claims have been asserted to the approximately \$55,000 in U.S. Funds seized from U.S. Bank account ending -2189 and the time for filing third-party claims has expired.

NOW, THEREFORE, THE COURT ORDERS:

1. The United States shall return \$14,225 of the approximately \$55,000 in U.S. funds seized from U.S. Bank account ending -2189 to Third-Party Claimant Derek Calitis upon conclusion of this criminal case.
2. The remaining \$40,775 of the approximately \$55,000 in U.S. Funds seized from U.S. Bank account ending -2189 is finally forfeited to the United States.
  - a. No right, title, or interest in the \$40,775 in U.S. Funds exists in any party other than the United States;
  - b. The \$40,775 in U.S. Funds is fully and finally condemned and forfeited, in its entirety, to the United States; and,
  - c. The United States Department of Justice, United States Postal Inspection Service, and/or their representatives, are authorized to dispose of the \$40,775 in U.S. Funds as permitted by governing law.

IT IS SO ORDERED.

DATED this 25th day of November, 2024.



THE HON. ROBERT S. LASNIK  
UNITED STATES DISTRICT JUDGE

1 Presented by:

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